

000735

OFFICE OF

THE CITY ATTORNEY

CITY OF SAN DIEGO

Michael J. Aguirre

CITY ATTORNEY

1200 THIRD AVENUE, SUITE 1620
SAN DIEGO, CALIFORNIA 92101-4178
TELEPHONE (619) 236-6220
FAX (619) 236-7215

110
10/21

August 25, 2008

REPORT TO THE CITY COUNCIL

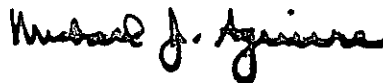
PROPOSAL TO AMEND CONFLICTS OF INTEREST CODE FOR THE CITY
ATTORNEY'S OFFICE

The California Government Code requires that local agencies adopt conflict of interest codes designating positions that involve the making of decisions, or participation in the making of decisions, that may foreseeably have a material effect on one's financial interests.

Government Code section 87305.5 requires a biennial review of local agency conflict of interest codes every even-numbered year. In compliance with the Government Code, the City is in the midst of a City-wide biennial review of all conflict of interest codes for which the City Council serves as code reviewing body. Those codes requiring revision are scheduled to be placed on the docket for Council consideration this fall. The new codes must take effect on or before January 1, 2009.

The City Attorney's Office submits a proposed revised code that includes updates to the required filing category for one designated position. The revisions conform to Government Code section 87305.5. The revision process is also reflected in City Council Resolution No. R-303718, with a date of final passage of May 27, 2008, which provided for the biennial review and update of the local codes.

Respectfully submitted,



MICHAEL J. AGUIRRE
City Attorney

MJA:sbs
RC-2008-19

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO				1. CERTIFICATE NUMBER (FOR AUDITOR'S USE ONLY)			
000737 TO: CITY ATTORNEY		2. FROM (ORIGINATING DEPARTMENT): CITY ATTORNEY		3. DATE: August 27, 2008			
4. SUBJECT: PROPOSED REVISIONS TO CONFLICT OF INTEREST CODE FOR CITY ATTORNEY'S OFFICE							
5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.) Stephanie Gilbert 236-6506 M.S. 59		6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.) Catherine Bradley 236-6220 M.S. 59		7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED <div style="text-align: right; font-size: 1.5em;">X</div>			
8. COMPLETE FOR ACCOUNTING PURPOSES							
FUND				9. ADDITIONAL INFORMATION / ESTIMATED COST:			
DEPT.							
ORGANIZATION							
OBJECT ACCOUNT							
JOB ORDER							
C.I.P. NUMBER							
AMOUNT							
10. ROUTING AND APPROVALS							
ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	<i>Karen Hansen</i>	8/28/08	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY	<i>Paula Spink</i>	10/6/08
4	LIAISON OFFICE			11	ORIG. DEPT		
5				DOCKET COORD: _____ COUNCIL LIAISON _____ <div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <input checked="" type="checkbox"/> COUNCIL PRESIDENT <i>ms</i> </div> <div> <input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION <input type="checkbox"/> REFER TO: _____ COUNCIL DATE: 10/21/08 </div> </div>			
6							
7							
11. PREPARATION OF: <input checked="" type="checkbox"/> RESOLUTIONS <input type="checkbox"/> ORDINANCE(S) <input type="checkbox"/> AGREEMENT(S) <input type="checkbox"/> DEED(S)							
Adopting the revised Conflict of Interest Code for the City Attorney's Office.							
11A. STAFF RECOMMENDATIONS: Approve the revised Conflict of Interest Code and appendices as submitted.							
12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)							
COUNCIL DISTRICT(S): All							
COMMUNITY AREA(S): Citywide							
ENVIRONMENTAL IMPACT: This action is not a "project" for purposes of CEQA.							
HOUSING IMPACT: N/A							
OTHER ISSUES: None							

000739

2008 Local Agency Biennial Notice

Name of Agency: City of San Diego Office of the City Attorney
Mailing Address: 1200 Third Avenue, Suite 1620, San Diego, CA 92101-4106
Contact Person: Elena Mendoza, Liaison; Stephanie Gilbert, Supervisor
Phone Number: 236-6441; 236-6506 Fax Number: 236-7215
E-mail: EMendoza@sandiego.gov; SGilbert@sandiego.gov

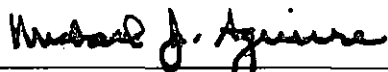
This agency has reviewed its conflict of interest code and has determined that:

X The code needs to be amended and the following amendments are necessary:

(Check all that apply)

- X Include new positions (including consultants) which must be designated (App. A)
- Delete positions that manage public investments from the list of designated positions.
- Revise disclosure categories (App. B)
- Revise the titles of existing positions (App. A)
- Delete the titles of positions that have been abolished (App. A)

 No amendments are necessary. The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those holding the designated positions; and the code includes all other provisions required by Government Code Section 87302.



Signature of Chief Executive Officer

8/28/08
Date

You must complete this report regardless of how recently your code was approved or amended.

Please return this report by August 22, 2008, to:

Denise Jenkins, Elections Analyst
Office of the City Clerk
202 C Street, MS 2A, San Diego, CA 92101

RECEIVED
CITY CLERK'S OFFICE

08 AUG 28 PM 4:24

SAN DIEGO, CALIF.

RECEIVED
CITY CLERK'S OFFICE
08 AUG 28 PM 4:24
SAN DIEGO, CALIF.

CERTIFICATION

The foregoing amendment to the Conflict of
Interest Code was prepared by the City of

San Diego's

Office of the City Attorney

(name of department/agency/board)

after a fair opportunity was offered to the
members of the department/agency/board to
present their views.

Michael J. Aguirre

(signature of executive officer)

8/28/08

(date)

000743

RECEIVED
CITY CLERK'S OFFICE

OFFICE OF THE CITY ATTORNEY 08 AUG 28 PM 4:24
 CONFLICT OF INTEREST CODE
 DESIGNATED POSITIONS SAN DIEGO, CALIF.
 APPENDIX A

POSITION	DUTIES	CATEGORY
City Attorney	Chief legal advisor of and attorney for the City and all departments and offices thereof as specified in San Diego City Charter Section 40.	Files 700 Form (Statutory Requirement - Gov't Code § 87200)
Assistant City Attorney (Civil Division)	Under administrative direction, to provide legal counsel to the City Council, Mayor and City Departments; and to assist the City Attorney in planning, directing and coordinating the work of the division in the City Attorney's office; and to perform related work.	1
Assistant City Attorney (Criminal Division)	Under administrative direction, to oversee the operations of the Criminal Division; and to assist the City Attorney in planning, directing and coordinating the work of the division in the City Attorney's office; and to perform related work.	1
All Deputy City Attorneys in Civil Division, and in Code Enforcement, Drug Abatement Response Team and Consumer and Environmental Protection Unit of Criminal Division	Perform duties as assigned by the City Attorney.	1

POSITION	DUTIES	CATEGORY
The Attorney who sits with the Funds Commission in the place of the City Attorney		Files 700 Form (Statutory and Regulatory Requirement - Gov't Code § 87200; 2 Cal. Code of Regs. § 18720)
All other Deputy City Attorneys in Criminal Division	Perform duties as assigned by the City Attorney.	2
Communications Director (Principal Assistant)	Under administrative direction, to assist the City Attorney in the administration of the office of the City Attorney, including communications work, and to perform related work.	2
Intergovernmental Affairs Manager (Program Manager)	Under administrative direction, to assist City Attorney with the duties related to intergovernmental and public relations; and to perform related work.	1
Director Human Resources and Administrative Services (Deputy Director)	Under direction, to assist the City Attorney in the administration of the office in the areas of budget, personnel, policy development, and organization effectiveness.	2
Supervising Human Resources Analyst	Under direction, supervises and administers the budget, personnel, and information systems services of the office; and performs related work.	2
Supervising Management Analyst	Analyzes need for and/or recommends purchase or lease of equipment, supplies, service contracts and other purchases and service agreements for the department. Acts as project manager and authorizes activities, supplies and/or equipment as needed on a special project basis.	2

POSITION	DUTIES	CATEGORY
Senior Management Analyst	Under direction, analyzes need for and/or recommends purchase or lease of equipment, supplies, service contracts and other purchases for the division. Performs difficult and complex budgetary, fiscal, organizational and administrative studies and assignments; and performs related work.	2
Dispute Resolution Officer	Under general supervision, to resolve citizen disputes without formal court proceedings; to conduct informal office hearings to obtain compliance with the law; and to perform related work.	2
Principal City Attorney Investigator	Under direction, to plan, assign, supervise and coordinate a wide variety of pre-trial investigations for City liability and other cases; to conduct special investigations; and to perform related work.	3
Senior City Attorney Investigator	Under direction, to perform the more difficult and complex pre-trial investigations for City liability and other cases going to trial; to perform sensitive and complex special investigations and projects; to supervise litigation investigators; and to perform related work.	3
City Attorney Investigator	Under direction, to perform a wide variety of investigations for City liability and other cases going to trial; to conduct special investigations; and to perform related work.	3
Principal Legal Assistant	Under direction, to plan, assign, supervise, and direct through subordinate supervisors, a variety of paralegal duties; to perform the more difficult, complex, and sensitive paralegal projects; and to perform related work.	3
Senior Legal Assistant	Under direction, to train, supervise and review the work of subordinate Legal Assistants within a work unit; to perform the more difficult, complex and sensitive paralegal duties; and to perform related work.	3

POSITION	DUTIES	CATEGORY
Legal Assistant	Under direction, to assist Deputy City Attorneys by performing routine paralegal duties in the City Attorney's office; and to perform related work.	3
Librarian III (Law Librarian)	Under direction, to organize and maintain 3 division libraries, including acquisitions from law publishers and legal information suppliers, records management and indexing, litigation support, and managing in-house training in legal research and database searching, and acting as in-house automation consultant; and to perform related work.	3
Information Systems Analyst III	Under direction, serves as the departmental representative and liaison between department and San Diego Data Processing Corporation, the court system, and other law enforcement agencies; trains and supervises the work of subordinate information systems staff; develops and implements complex automated information systems; and performs related work.	2
Information Systems Analyst II	Under direction, at the journey level, to serve as the departmental representative and liaison between a City department and the San Diego Data Processing Corporation or private computer vendors in the development, testing, implementation, and modification of complex automated information systems; and to perform related work.	3
Associate Management Analyst	Under direction, at the journey level, to perform difficult and complex budgetary, fiscal, organizational and administrative studies and assignments; to prepare, administer and analyze operating and capital improvements, budgets; and to perform related work.	3

POSITION	DUTIES	CATEGORY
Consultants	A Deputy City Attorney who is head of a unit, Assistant City Attorney or City Attorney may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Deputy City Attorney who is head of a unit, Assistant City Attorney or City Attorney's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.	3

The City Attorney has determined that the following consultants are subject to the City Attorney Conflict of Interest Code and to file disclosure forms:	
X	Attorneys on retainer who serve in a staff capacity and who provide legal services on an ongoing basis. The scope of disclosure will be determined at the time of formation of the contract.
The City Attorney has determined that the following categories of consultants are not subject to the City Attorney's Conflict of Interest Code and shall not be required to file economic disclosure forms:	
X	Attorneys who volunteer services to the City Attorney.
X	Attorneys who provide limited duties for specific litigation or special projects.
X	Expert witnesses
X	Consultants who provide expertise in limited areas for specific litigation or special projects.

000748

000749

**OFFICE OF THE CITY ATTORNEY
CONFLICT OF INTEREST CODE
DESIGNATED POSITIONS
APPENDIX A**

RECEIVED
CITY CLERK'S OFFICE
08 AUG 28 PM 4:24
SAN DIEGO, CALIF.

POSITION	DUTIES	CATEGORY
City Attorney	Chief legal advisor of and attorney for the City and all departments and offices thereof as specified in San Diego City Charter Section 40.	Files 700 Form (Statutory Requirement - Gov't Code § 87200)
Assistant City Attorney (Civil Division)	Under administrative direction, to provide legal counsel to the City Council, Mayor and City Departments; and to assist the City Attorney in planning, directing and coordinating the work of the division in the City Attorney's office; and to perform related work.	1
Assistant City Attorney (Criminal Division)	Under administrative direction, to oversee the operations of the Criminal Division; and to assist the City Attorney in planning, directing and coordinating the work of the division in the City Attorney's office; and to perform related work.	1
All Deputy City Attorneys in Civil Division, and in Code Enforcement, and <u>Drug Abatement Response Team</u> and Consumer and Environmental Protection Unit of Criminal Division	Perform duties as assigned by the City Attorney.	1

POSITION	DUTIES	CATEGORY
The Attorney who sits with the Funds Commission in the place of the City Attorney		Files 700 Form (Statutory and Regulatory Requirement - Gov't Code § 87200; 2 Cal. Code of Regs. § 18720)
All other Deputy City Attorneys in Criminal Division	Perform duties as assigned by the City Attorney.	2
Communications Director (Principal Assistant)	Under administrative direction, to assist the City Attorney in the administration of the office of the City Attorney, including communications work, and to perform related work.	2
Intergovernmental Affairs Manager (Program Manager)	Under administrative direction, to assist City Attorney with the duties related to intergovernmental and public relations; and to perform related work.	1
Director Human Resources and Administrative Services (Deputy Director)	Under direction, to assist the City Attorney in the administration of the office in the areas of budget, personnel, policy development, and organization effectiveness.	2
Supervising Human Resources Analyst	Under direction, supervises and administers the budget, personnel, and information systems services of the office; and performs related work.	2
Supervising Management Analyst	Analyzes need for and/or recommends purchase or lease of equipment, supplies, service contracts and other purchases and service agreements for the department. Acts as project manager and authorizes activities, supplies and/or equipment as needed on a special project basis.	2

POSITION	DUTIES	CATEGORY
Senior Management Analyst	Under direction, analyzes need for and/or recommends purchase or lease of equipment, supplies, service contracts and other purchases for the division. Performs difficult and complex budgetary, fiscal, organizational and administrative studies and assignments; and performs related work.	2
Dispute Resolution Officer	Under general supervision, to resolve citizen disputes without formal court proceedings; to conduct informal office hearings to obtain compliance with the law; and to perform related work.	2
Principal City Attorney Investigator	Under direction, to plan, assign, supervise and coordinate a wide variety of pre-trial investigations for City liability and other cases; to conduct special investigations; and to perform related work.	3
Senior City Attorney Investigator	Under direction, to perform the more difficult and complex pre-trial investigations for City liability and other cases going to trial; to perform sensitive and complex special investigations and projects; to supervise litigation investigators; and to perform related work.	3
City Attorney Investigator	Under direction, to perform a wide variety of investigations for City liability and other cases going to trial; to conduct special investigations; and to perform related work.	3
Principal Legal Assistant	Under direction, to plan, assign, supervise, and direct through subordinate supervisors, a variety of paralegal duties; to perform the more difficult, complex, and sensitive paralegal projects; and to perform related work.	3
Senior Legal Assistant	Under direction, to train, supervise and review the work of subordinate Legal Assistants within a work unit; to perform the more difficult, complex and sensitive paralegal duties; and to perform related work.	3
Legal Assistant	Under direction, to assist Deputy City Attorneys by performing routine paralegal duties in the City Attorney's office; and to perform related work.	3

POSITION	DUTIES	CATEGORY
Librarian III (Law Librarian)	Under direction, to organize and maintain 3 division libraries, including acquisitions from law publishers and legal information suppliers, records management and indexing, litigation support, and managing in-house training in legal research and database searching, and acting as in-house automation consultant; and to perform related work.	3
Information Systems Analyst III	Under direction, serves as the departmental representative and liaison between department and San Diego Data Processing Corporation, the court system, and other law enforcement agencies; trains and supervises the work of subordinate information systems staff; develops and implements complex automated information systems; and performs related work.	2
Information Systems Analyst II	Under direction, at the journey level, to serve as the departmental representative and liaison between a City department and the San Diego Data Processing Corporation or private computer vendors in the development, testing, implementation, and modification of complex automated information systems; and to perform related work.	3
Associate Management Analyst	Under direction, at the journey level, to perform difficult and complex budgetary, fiscal, organizational and administrative studies and assignments; to prepare, administer and analyze operating and capital improvements, budgets; and to perform related work.	3

POSITION	DUTIES	CATEGORY
Consultants	A Deputy City Attorney who is head of a unit, Assistant City Attorney or City Attorney may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Deputy City Attorney who is head of a unit, Assistant City Attorney or City Attorney's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.	3

The City Attorney has determined that the following consultants are subject to the City Attorney Conflict of Interest Code and to file disclosure forms:	
X	Attorneys on retainer who serve in a staff capacity and who provide legal services on an ongoing basis. The scope of disclosure will be determined at the time of formation of the contract.
The City Attorney has determined that the following categories of consultants are not subject to the City Attorney's Conflict of Interest Code and shall not be required to file economic disclosure forms:	
X	Attorneys who volunteer services to the City Attorney.
X	Attorneys who provide limited duties for specific litigation or special projects.
X	Expert witnesses
X	Consultants who provide expertise in limited areas for specific litigation or special projects.

**OFFICE OF THE CITY ATTORNEY
CONFLICT OF INTEREST CODE
DISCLOSURE CATEGORIES
APPENDIX B**

As used in Appendix B, "the City" means the City of San Diego itself as well as all entities for which the Office of the City Attorney provides legal services.

Category 1: Investments and business positions in any business entity located in or doing business with the City.

Income and gifts from sources located in or doing business with the City.

Interests in real property located in the City, including property located within a two-mile radius of any property owned or used by the City.

Category 2:

- (a) Investments and business positions in any firm or business entity that supplies goods or services to the City, that is a tenant of the City, that is an adverse party to the City in a legal proceeding, that is a defendant in a law enforcement action being prosecuted on behalf of the City of San Diego or People of California by the City Attorney's Office, or is granted authority by the City to use City facilities.
- (b) Interests in real property owned or used by any person or business entity that supplies goods or services to the City, that is a tenant of the City, that is an adverse party to the City in a legal proceeding, that is a defendant in a law enforcement action being prosecuted on behalf of the City of San Diego or People of California by the City Attorney's Office, or is granted authority by the City to use City facilities.
- (c) Income and gifts from any person or business entity that supplies goods or services to the City, that is a tenant of the City, that is an adverse party to the City in a legal proceeding, that is a defendant in a law enforcement action being prosecuted on behalf of the City of San Diego or People of California by the City Attorney's Office, or an attorney representing a defendant in a law enforcement action being prosecuted on behalf of the City of San Diego or People of California by the City Attorney's Office, or is granted authority by the City to use City facilities.

Category 3:

For purposes of this category, any person or business entity means one which reasonably foreseeably will be the subject of an investigation by the City, is an adverse party to the City in a legal proceeding, that is a defendant in a law enforcement action being prosecuted on behalf of the City of San Diego or People of California by the City Attorney's Office, or is contracting with, or selling goods and services to, the City.

Investments or business positions in any business entity, income and gifts from any person or business entity, interests in real property held jointly or in common with any person or business entity.

Category 4:

As required, A Deputy City Attorney who is head of a unit, Assistant City Attorney, or City Attorney may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Deputy City Attorney who is head of a unit, Assistant City Attorney, or City Attorney's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

000757

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

RESOLUTION ADOPTING A REVISED CONFLICT OF
INTEREST CODE FOR THE CITY ATTORNEY'S OFFICE

WHEREAS, Government Code sections 87300 and 87302 require local agencies to adopt conflict of interest codes designating positions that involve the making or participation in making of decisions which may foreseeably have a material effect on financial interests, and for each position, the financial interests which are reportable; and

WHEREAS, in compliance with Government Code section 87306.5, the City is in the midst of a required City-wide biennial review of all conflict of interest codes for which the City Council serves as code-reviewing body; and

WHEREAS, by Resolution R-303718 (approved by the City Council on May 20, 2008, and signed by the Mayor on May 27, 2008), the City Council directed every City department, agency, board and commission for which the City Council serves as code-reviewing body to make biennial reports and to update their conflict of interest codes as necessary; and

WHEREAS, as the City's code-reviewing body, the City Council finds it in the public interest to adopt the standard conflict of interest code promulgated by the California Fair Political Practices Commission [FPPC] in Regulation 18730, and hereby declares its intention to incorporate by reference the terms of FPPC Regulation 18730 and any amendments to that regulation duly adopted by the FPPC as part of each conflict of interest code for which the City Council has responsibility; and

000758

WHEREAS, by Resolution No. 302207, the City Council on December 5, 2006, approved a revised Conflict of Interest Code for the City Attorney's Office; and

WHEREAS, the City Attorney's Office now seeks to enact a revised conflict of interest code, which adds a position to Appendix A; and

WHEREAS, the City Council concurs that a revised Conflict of Interest Code be adopted for the City Attorney's Office; and

WHEREAS, Government Code section 87303 provides that when a proposed conflict of interest code or amendment is approved by the code-reviewing body, it shall be deemed adopted, and, accordingly, this resolution is not subject to veto by the Mayor; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a Conflict of Interest Code for the City Attorney's Office is hereby adopted, consisting of standard language embodied in title 2, section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories.

BE IT FURTHER RESOLVED, that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the City Attorney's Office as adopted be placed on file in the Office of the City Clerk as Document No. RR-_____.

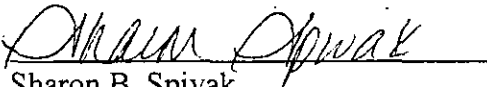
BE IT FURTHER RESOLVED, that the persons whose positions are designated in the revised Conflict of Interest Code for the City Attorney's Office shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code section 87302(b) and Fair Political Practices Commission Regulation 18730, or any

amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements.

BE IT FURTHER RESOLVED, that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction.

BE IT FURTHER RESOLVED, that the Conflict of Interest Code for the City Attorney's Office becomes effective upon the date of adoption of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Sharon B. Spivak
Deputy City Attorney

SBS:als
10/06/08
Or.Dept:City Attorney
R-2009-206